

TORTURE: WHO KNEW

An Analysis of the FBI and Department of Defense Reactions to Harsh
Interrogation Methods at Guantanamo

By

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“I witnessed SGT [REDACTED] placing lotion in her hand and touching a detainee. She was whispering in the detainee’s ear as her hand traveled to the detainee’s lap. I didn’t see her hands (because her body obstructed my view) touch the detainee’s groin, but the detainee started to grimace in pain. Later, a Marine told me that SGT [REDACTED] bent the detainee’s thumbs back. He went on to say that ‘if you think that this is bad, she has done worse.’”

—FBI Agent, quoted in notes taken during the Government’s investigation into the alleged abuse of detainees at Guantánamo Bay

“[The Government’s investigation] found no evidence of torture or inhumane treatment at JTF-GTMO.”

— Schmidt Report, summarizing the Government’s investigation

DEPARTMENT OF DEFENSE FALSELY DENIED MISTREATMENT OF DETAINEES .

A large number of Guantánamo detainees were abused repeatedly over a period of thirty (30) months, during which time senior FBI officials received many reports of abuse but delayed forwarding them to the Department of Defense.

At least five (5) generals were aware of these abuses: at least one general encouraged the abuses; one general (then Provost Marshall of the army) discarded rather than investigated reports of abuse; one general, after having been formally advised of the abuses, ordered only a very narrowly tailored investigation; and the two generals assigned to perform that investigation ignored some of the worst abuses and affirmatively covered up reports of abuses that surfaced during the investigation.

EXECUTIVE SUMMARY

This report, like all Seton Hall Law Center for Policy and Research reports, relies only upon documents prepared and released by the United States Government. A significant majority of the relied-upon documents were released to the public through Freedom of Information Act (FOIA) lawsuits brought by the American Civil Liberties Union (ACLU); others were released voluntarily by the Department of Justice or the Department of Defense. In either case, the documents are almost always heavily redacted: names, dates, and other facts (including descriptions of “interrogation techniques”) are, in many cases, completely obscured.

Despite these limitations, publicly available Government documents demonstrate the following:

- The FBI field agents reported more than 211 abusive techniques used on detainees during interrogation by Department of Defense interrogators. The techniques include: physical harm to the genitals; forced viewings of homosexual pornography; denial of food and water; disorientation techniques such as sleep deprivation; and religious abuse such as forced baptisms.
- FBI field agents reported more than 34 times that such interrogation techniques produced unreliable intelligence, that such methods were counterproductive, and that any information derived through the use of such techniques was likely to be inadmissible in court.
- During the same time FBI personnel reported at least 14 complaints that Major General Geoffrey Miller had encouraged and permitted these abuses.
- On July 9, 2004, in the wake of the Abu Ghraib scandal, senior FBI officials solicited reports of detainee treatment and mistreatment from every FBI employee

who had been stationed at Guantánamo. The investigation into these complaints by the FBI was completed on September 23, 2004.

- On December 4, 2004 senior FBI officials learned that a FOIA request made by the ACLU would likely cause the public release of agents' responses to the July 9, 2004 solicitation. On December 15, 2004 the FBI referred to the Department of Defense the 93 solicited complaints obtained by the FBI as part of its post-Abu Ghraib investigation.
- The complaints referred by the FBI to the Department of Defense did *not* include:
 - 118 techniques reported in the unsolicited complaints filed before the July 9, 2004 solicitation.
 - 14 complaints made by the field agents in response to the conduct of the Major General Geoffrey Miller, nor
 - 3 complaints contained in emails sent by Agent Thomas Harrington to Major General Donald J. Ryder, Provost Marshal of the Army.
 - 36 complaints that the Department of Defense's techniques were counterproductive and were producing unreliable information.
- On December 29, 2004, General Bantz J. Cradock commissioned Generals Furlow and Schmidt to investigate the incidents referred to the DOD by the FBI referral and to publish a report, which is referred to as the Schmidt report. It was issued in April 2005 and then amended in June 2005.
- The Schmidt report omitted:
 - All reference to the most significant abuses contained the FBI referral.
 - All reference to the FBI complaints sent separately to Major General Ryder the Provost Marshal of the Army by Agent Thomas Harrington in July of 2004;
- The Schmidt's investigation, independent of the FBI, uncovered 79 additional incidents of improper interrogation techniques. which included 15 allegations of sexual abuse:
 - The Schmidt Report omitted any reference to these newly discovered, improper interrogation techniques.
 - The Schmidt report did not include any of the 118 unsolicited complaints withheld by the FBI in its December referral to the Department of Defense.

- The Schmidt Report asserts that there is “no evidence” that “torture or inhumane treatment occurred at Guantánamo, and concludes that only three (3) actions occurred in violation of “interrogation techniques authorized by Army Field Manual 34-52 and [Department of Defense] guidance.”
- General Schmidt so testified to Congress and thereafter his report has been presented as s a complete review and rebuttal of allegations of detainee abuse at Guantánamo Bay.

METHODOLOGY

This report explains how senior officials at the FBI and Department of Defense responded to the numerous reports filed by FBI agents in response to improper techniques used by Defense Department interrogators at Guantánamo Bay. This report does not attempt to present a complete picture of all interrogation techniques actually used at Guantánamo. Rather, it presents only those techniques described by FBI field agents in their own reports. The agents’ reports that are reviewed are from three sources: (1) unsolicited reports received by senior FBI officials prior to 2004; (2) solicited reports sent to senior FBI officials in 2004 pursuant to an FBI directive; and (3) notes compiled from the Schmidt-Furlow investigation and labeled in the Schmidt Report’s appendix as “Enclosures.”¹

Therefore, this report relies entirely upon statements made by Government agents (whether FBI agents, Department of Defense employees, or civilian contractors serving as employees and agents of the Department of Defense). All of the complaints cited in this report, to the extent it is possible to discern them, describe the actions of Department of Defense interrogators as witnessed by FBI agents who were present.² This report does not address any allegations that have been raised only by detainees.³

Thus, this report neither attempts to document all detainee abuse during interrogation. (That information has been published by others with greater access to unredacted reports.) Rather, this report shows what information FBI agents in Guantánamo recorded and sent up the chain of command to headquarters. From this information, it is possible to determine what FBI headquarters and the Defense Department knew—and what they did—about detainee mistreatment during interrogations.

The documents analyzed in this report were culled from over 100,000 pages of documents that have been produced as a result of FOIA litigation. While the majority of these documents describe conduct in Afghanistan and Iraq, this report analyzes only those documents describing Defense Department interrogators’ mistreatment of detainees at Guantanamo.

¹ The documents that are relied upon in this report comprise only a small part of the approximately 100,000 documents released as a result of a FOIA application by the ACLU. The identification of the documents crucial to this report was, in large part, the result of the research and investigation conducted by Matthew Darby, Daniel Mann and, above all, Megan Sassaman.

² This report refers to military police conduct only when such conduct is at the behest of an interrogator.

³ Most of the documents cited in this report were obtained by the American Civil Liberties Union through Freedom of Information Act litigation, and are available at <http://www.aclu.org/safefree/torture/torturefoia.html>. (Page numbers refer to the government-issued page numbers on the document, not the corresponding page number in the PDF document.) A minority of documents cited in this report was released voluntarily by the Government.

Most of these documents—which include both the solicited and unsolicited reports evaluated in this report—consist primarily of emails sent from FBI agents to senior FBI officials. These documents have been heavily redacted by the Government. In almost all cases, dates and names have been withheld; in many cases, substantive information has also been redacted. In fact, of the 251 solicited and unsolicited responses ultimately reviewed for use in this report, more than forty percent (40%) are so heavily redacted that more than half of the original document’s content remains obscured. More than fifteen percent (15%) of these documents contain full page redactions or appear to be missing entire pages, and more than twenty-five percent (25%) refer to appendices which have not been released. Redacted documents are difficult to catalog without errors, but duplicative documents have been eliminated from this report’s analysis to the greatest extent possible. Some documents have been entirely redacted and are thus impossible to review; those are not reported on here.

In contrast to the FBI agents’ individual reports, the Schmidt Report addresses interrogator conduct only generally. The present report examines the Schmidt Report as it was presented to Congress, and it also considers the Schmidt “Enclosures”: a collection of notes and documents from General Schmidt’s investigation compiled for an unknown purpose and appended to the Schmidt Report without comment. The “Enclosures” consist primarily of summaries of interviews with FBI agents, Defense Department interrogators, and senior Defense Department officials such as Major General Geoffrey D. Miller and Major General (Ret.) Michael Dunlavey. Also included among the “Enclosures” are interrogation logs and memoranda regarding torture allegations.

In spite of the Schmidt Report’s ambiguity—and despite the Government’s heavy redactions of other documents relied upon by this report—an analysis of publicly available data reveals a much greater breadth of alleged Defense Department misconduct than is addressed by the Schmidt Report, notwithstanding that General Schmidt was personally aware of (or could have easily discovered) all of the misconduct that is discussed in the present report.

THE EARLY YEARS: FBI REPORTS MISTREATMENT OF DETAINEES BY DoD INTERROGATORS

Beginning in 2002, FBI agents witnessed conduct by Department of Defense interrogators at Guantánamo Bay Naval Station that compelled several agents to document their complaints in reports to FBI administrators. These unsolicited complaints, which the agents have alleged were met by Defense Department personnel with indifference,⁴ describe actions performed by Defense Department personnel that include beatings as well as exploitation of detainees' religious beliefs and sexuality.⁵ Other types of misconduct alleged in the FBI agents' unsolicited complaints include hoodings,⁶ denial of food and water,⁷ sleep deprivation,⁸ threats⁹ and wrapping detainees in Israeli flags,¹⁰ as well as use of dogs,¹¹ strobe lights,¹² loud noise¹³ and extreme temperatures.¹⁴

Despite the serious nature of the FBI agents' concerns regarding mistreatment of detainees, FBI administrators filed away their unsolicited complaints, and did not share them with the Department of Defense for more than two years.

1. Unreliable, Counterproductive and Contrary to the Best Interests of the Nation

The FBI agents' unsolicited complaints not only describe alleged misconduct by Department of Defense interrogators, but also articulate specific reasons for concern with their interrogation tactics. One agent summarized the popular sentiment among agents as follows:

⁴ "We talked to him (Mr. [REDACTED]) several different times to let him know that we objected to the use of dogs and that we did not do business that way. It was an inappropriate measure. He told us that we ([REDACTED] and I) were guests and we should act accordingly." [(M) SCHMIDT-FURLOW DEFERRED, DOD 3770]

⁵ See, for example, [Detainees-2600, 2600.pdf] ("Last evening I went to observe an interview of [REDACTED] with [REDACTED]. The adjoining room, observable from the monitoring booth, was occupied by 2 DHS [Defense Humint Services] investigators showing a detainee homosexual porn movies and using a strobe light in the room. We moved our interview to a different room").

⁶ [Detainees- 2715, 2715.pdf] ("Based on Rumsfeld's public statements, DOD is against hooding prisoners, threats of violence and techniques meant to humiliating detainees (there is a list I have seen). I know these techniques were approved at high level w/in DOD and used against [REDACTED] and [REDACTED].")

⁷ [FBI 4985-4987.pdf] ("During the 12 hours [REDACTED] was not permitted to eat, pray, or use the bathroom.")

⁸ [Detainees 2561, 2561.pdf]

⁹ [Detainees 3648-3650, FBI 4645-4657.pdf] ("Agents have seen documentary evidence that a detainee was told that his family had been taken into custody and would be moved to Morocco for interrogation if he did not begin to talk.")

¹⁰ [Detainee-2600, 2600.pdf]

¹¹ [Detainees 3648-3650, FBI 4645-4657.pdf] ("Agents aware of detainees being threatened (either in person or aurally) by dogs.")

¹² [Detainee-2600, 2600.pdf]

¹³ [Detainees 2561, 2561.pdf]

¹⁴ [Detainees 2776, 2776.pdf]

These tactics have produced no intelligence of a threat neutralization nature to date and CITF [Criminal Investigation Task Force] believes that [sic] techniques have destroyed any chance of prosecuting this detainee.¹⁵

From the beginning, agents expressed concerns that Defense Department interrogation tactics produced unreliable and inadmissible intelligence. In their unsolicited complaints alone, the agents described thirteen (13) incidents that the Defense Department's interrogation techniques were likely to produce unreliable intelligence, four (4) times that the techniques were likely to be counterproductive, and three (3) times that the the interrogation techniques were deemed likely to raise admissibility issues for the FBI.

“In our weekly meetings with DOJ we often discussed {REDACTED} techniques and how they were not effective aor producing reliable information.”¹⁶

2. *Impersonating the FBI*

One Defense Department interrogation technique of particular concern to the agents was the Department's practice of posing as FBI agents during interrogations. One agent expressed this concern as follows:

We've heard that DHS [Department of Homeland Security] interrogators routinely identify themselves as FBI Agents and then interrogate a detainee for 16-18 hours using tactics as described above and others (wrapping in Israeli flag, constant loud music, cranking the A/C down, etc.) The next time a real Agent tries to talk to that guy, you can imagine the result.¹⁷

If this detainee is ever released or his story made public in any way, DOD interrogators will not be held accountable because these torture techniques were done (by) the “FBI” interrogators. The FBI will be left holding the bag before the public.”¹⁸

Agents voiced concern with the Department of Defense's practice of FBI agent impersonation in at least fourteen (14) of their unsolicited complaints.

¹⁵[Detainees 3168, FBI_3977.pdf] See also [Detainees-1262, 1261.pdf] (“Several discussions were held to determine the most effective means of conducting interview of detainees: These discussions were prompted by the recognition that members of the Defense Intelligence Agency's (DIA) Defense Human Services (DHS) were being encouraged at times to use aggressive interrogation tactics in GTMO which are of questionable effectiveness[...]Not only are these tactics at odds with legally permissible interviewing techniques used by U.S law enforcement agencies [...] but they are being employed by personnel in GTMO who appear to have little, if any, experience eliciting information for judicial purposes. The continued use of these techniques has the potential of negatively impacting future interviews by FBI agents as they attempt to gather intelligence and prepare cases for prosecution.”).

¹⁶ Detainees-2709, DOJFBI-001373,

¹⁷ [Detainees-2600, 2600.pdf] The Schmidt Report does address the impersonation issue; it states that FBI impersonations were discontinued because “[t]he technique, while authorized, was undermining the inter-agency working relationship.” Schmidt Report at 7.

¹⁸ Detainees-3168, FBI. 121504.3977.pdf

3. Agents' Complaints Extended to Senior Defense Department Officials

When FBI agents in Guantanamo expressed their objections to the treatment of detainees during interrogation, the complaints were met with indifference or blunt dismissal. For example, “We talked to him (Mr. [REDACTED]) several different times to let him know that we objected to the use of dogs and that we did not do business that way. It was an inappropriate measure. **He told us that he ([REDACTED]) and I “were guests and we should act accordingly.”**¹⁹

The FBI agents' concerns were not limited to the practices of low-level Defense Department interrogators but in fact extended to some of the Department's most senior officials. One agent, for example, cited the following specific concerns with the practices of Major General Geoffrey Miller:

From what cnn reports, gen karpinsky at Abu Gharib said that gen miller came to the prison several months ago and told her they wanted to “*gitmotize*” abu ghraib. I am not sure what this means. However, if this refers to intell gathering as I suspect, it suggests he has continued to support interrogation strategies we not only advised against, but questioned in terms of effectiveness. Yesterday, however, we were surprised to read an article in stars and stripers, in which gen miller is quoted as saying that he believes in the rapport-building approach. This is not what he was saying at gtmo when I was there. [REDACTED] and I did cart wheels. The battles fought in gitmo while gen miller he was there are on the record.²⁰

General Miller was transferred to Iraq in the spring of 2004, and told the head of the military prison system that he was going to “Gitmo-ize” Iraq.²¹ The Abu Ghraib scandal broke thereafter.

AFTER ABU GHRAIB

Immediately after the Abu Ghraib abuses became public in 2004, the FBI sent an email to all agents stationed in Iraq requesting information regarding detainee abuses. A modified

¹⁹ [(M) SCHMIDT-FURLOW DEFERRED, DOD 3770] (Emphasis added)

²⁰ Inconsistent capitalization in original; emphasis added. [Detainees-3390, FBI_4140.pdf] See also [Detainees-1264, 1261.pdf] (“The military and DHS’s inaccurate portrayal to the Pentagon that the BAU had endorsed and, in fact, helped to create DHS’s interrogation plan for [REDACTED] prompted SSA [REDACTED], SSA [REDACTED] and the FBI on-scene TDY operations supervisor, SSA [REDACTED] to send a letter (Encl 9) to MGEN Miller correcting these misstatements and requesting an opportunity to address the matter with MGEN Miller in person. During a subsequent meeting between MGEN Miller and SSA’s [REDACTED] SA [REDACTED] details and rationale for the BAU’s interviewing approach were presented. Although MGEN Miller acknowledged positive aspects of this approach, it was apparent that he favored DHS’s interrogation methods, despite FBI assertions that such methods could easily result in the elicitation of unreliable and legally inadmissible information.”).

²¹ <http://www.washingtonpost.com/ac2/wp-dyn/A13065-2004May9?language=printer>. General Miller later denied using the word “Gitmo-ize.” <http://www.washingtonpost.com/wp-dyn/articles/A19081-2004May11.html>.

version of this email was later sent by FBI General Counsel Valerie E. Caproni to all agents whom had ever been stationed at Guantánamo:

[Agents who observed] *aggressive treatment, which was not consistent with Bureau interview policy guidelines*, should respond via email for the purpose of a follow up interview.²²

While many FBI agents did respond to the formal solicitation,²³ a majority of the unsolicited complaints previously raised between 2002 and 2004 do not appear to have been resubmitted. However, the complaints submitted by FBI agents in response to the formal July 2004 solicitation describe many of the same types of interrogation techniques as did the agents' unsolicited complaints, including: isolation,²⁴ hoodings,²⁵ stress positions,²⁶ sleep deprivation,²⁷ and religious and sexual imagery.²⁸ One account, for instance, describes the forced baptism of a seventeen year-old detainee:

Another interrogator [...] bragged about making Detainees [REDACTED] listen to satanic black metal music for hours and hours. Then the

²² [Positive Response Number 4, Responses-44]

²³ Of the 532 FBI employees and contractors listed by the Counterterrorism Division (CTD) as having served in Guantánamo during this time-frame, only 434 submitted responses to the July 2004 solicitation. Thus, almost 20% of those whom were formally solicited did not respond. [Responses-4]

²⁴ [Responses Which Are Not Purely Negative K, Responses-258] (“One detainee was kept in the cell in isolation for an extended period of time, I think up to 30 days.”). See also [Positive Response 2, Responses-25] (“When [REDACTED] arrived in GTMO, number [REDACTED] was incarcerated in a darkened cell in the Naval Brig.”).

²⁵ [Responses Which Are Not Purely Negative H, Responses-253] (“A detainee was led into an interview room by hooded MPs. The detainee was also hooded and the hood was removed by the MPs for the interview”).

²⁶ [Positive Response Number 6, Responses 62] (“[D]uring the summer of 2002, [REDACTED] walked into a camp Delta observation room and noticed a detainee in an interview room...handcuffed with cuffs chained to his waist. [REDACTED] advised the chains were adjusted to force the detainee to stand in a “baseball catcher” position.”).

²⁷ [Responses Which Are Not Purely Negative L, Responses 260-261] FBI positive responses 242-43 (“During my assignment at GTMO I received a briefing from the military personnel assigned to operations at GTMO, the non-cooperative detainees could be placed on a list for a specific interrogation technique involving interruption of sleep pattern, called the ‘frequent flyer program’. With this particular technique, identified detainees were moved frequently from cell block to cell block at intervals that appeared to be every hour or every two hours depending on the shifts and the availability of military personnel to move the detainee. Detainees were moved along with all of their personal belongings. Due to the movement to different cells the detainees had their sleep interrupted throughout a 24 hour period.”). See also [Positive Response Number 4, Responses 44] (“I occasionally saw sleep deprivation interviews with strobe lights and two different kinds of loud music. I asked one of the interrogators what they were doing and they said that it would take approximately four days to break someone doing an interrogation. 16 hours on with the lights and music and four hours off. The sleep deprivation and the lights and alternating beats of the music would wear the detainee down. There was a time period where the interrogations were obtrusive enough that the interview rooms for an entire trailer were not available if one of these techniques were being utilized.”).

²⁸ [Responses Which Are Not Purely Negative F, Responses 247-248] (“[D]etainees advised me that they had been subjected to loud music to keep them awake and had been shown pornographic photos in an effort to upset them[...]these were techniques used by Department of Defense (DOD) contract interviewers. This was common knowledge among FBI employees and it was a topic as I recall that was discussed at staff meetings because it was sometimes detrimental to our efforts of attempting to establish rapport with the detainees.”); [Positive Response Number 14, Responses 188] (“At that time I saw another detainee sitting on the floor of the interview room with an Israeli flag draped around him, loud music being played and a strobe light flashing. I left the room immediately after seeing this activity.”).

interrogator dressed as a Catholic Priest and baptized the detainee in order to save him.²⁹

Many other complaints, such as the one that follows, describe the use of a combination of these and other techniques:

On a couple of occasions, I entered interview rooms to find a detainee chained hand and foot in a fetal position to the floor, with no chair, food, or water. Most times they had urinated or defactated [sic] on themselves, and had been left there for 18, 24 hours or more. On one occasion [sic], the air conditioning had been turned down so far and the temperature was so cold in the room, that the barefooted detainee was shaking with cold. When I asked the MP's what was going on, I was told that interrogators from the day prior had ordered this treatment, and the detainee was not to be moved. On another occasion [sic], the A/C had been turned off, making the temperature in the unventilated room probably well over 100 degrees. The detanee ([sic] was almost unconscious on the floor, with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night. On another occasion [sic], not only was the temprerature [sic] unbearably hot, but extremely loud rapmusic [sic] was being played in the room, and had been since the day before, with the detainee chained hand and foot in the fetal position on the floor.³⁰

Some of the agents' accounts, such as the one that follows, alleged that detainees were denied food and water:

Sometime in the second or third week of February of 2004, [REDACTED] was taken to reservation. [REDACTED] was on both FBI and NAE hold. He [...] was yelled at for 25 minutes was short shackled, the room temperature was significantly lowered, strobe lights were used, and possible loud music [...] after the initial 25 minutes of yelling, [REDACTED] was left alone in the room in this condition for approximately 12 hours [...] During the 12 hours, was not permitted to eat, pray, or use the bathroom.³¹

Others described harmful physical conduct:

²⁹ [Positive Response 44, Responses 46;(M) SCHMIDT-FURLOW DEFERRED, DOD 3758-3759, Exhibit 34] *See also* [<http://www.dod.mil/pubs/foi/detainees/detaineesFOIArelease15May2006.pdf>] Yussef Mohammed Mubarak Al Shihri, ISN #114, was born September 8, 1985. Agent was stationed in Guantánamo from 6/2/2003-7/17/2003.

³⁰ Email from an FBI agent [Positive Responses 1, Responses-10]

³¹ [Positive Response Number 21, Responses-214] *See also* [Positive Response Number 1, Responses-12] (“On a couple of occasions, I entered interview rooms to find a detainee chained hand and foot in a fetal position to the floor, with no chair, food, or water. Most times they had urinated or defecated on themselves, and had been left there for 18, 24 hours or more. On one occasion[...]I was told that interrogators from the day prior had ordered this treatment, and the detainee was not to be moved.”).

When the detainee was brought in for the interview, [REDACTED] observed the detainee had a black eye, facial cuts around the nose area, and his fingers on both hands were taped up. The detainee, who spoke English, said words to the effect of ‘they,’ motioning to the Military Police (MP) guards, had done this to him. A Colonel in charge of the MPs, whose name [REDACTED] could not recall, advised that the detainee’s injuries were sustained in a scuffle due to the detainee’s becoming non-compliant and had to be brought into compliance by a Rapid Response Team.³²

Still another complaint described how one physically ill detainee vomited repeatedly during his fifteen-hour long interrogation:

[REDACTED] was being debriefed for several hours (approximately 15 hours) by NAE [the Department of Defense’s North Africa-Europe team]. Throughout the session, [REDACTED] periodically threw up in a trash can. At the time, I was told he had an ulcer and that the stress was irritating it. I was later advised he had a stomach virus. I was told he had been given a shot of Motrin (or something like that) by the medical staff.³³

While the agents’ solicited complaints are very similar in content to their unsolicited complaints, there are fewer references to general abuse/torture among those complaints that were formally solicited by the FBI. One possible explanation for this is that the formal solicitation (whether intentionally or inadvertently) limited the scope of agents’ responses. One agent, for instance, submitted the following query upon receiving the formal solicitation: “I observed what may have been aggressive techniques used by *non*-FBI interrogators. Does this still fall into what you are looking for?”³⁴ The agent’s confusion highlights the solicitation’s ambiguity, and it is difficult to estimate what information may have been withheld as a result.

The FBI agents reported that their ability to observe the Department of Defense interrogation techniques was limited. For example, agents reported that there although there were 8 interrogation rooms in each trailer, two of the eight were off limits to the FBI agents.³⁵

The agents also reported that sometimes entire trailers were off limits to FBI agents during interrogation. “Often DOD personnel would reserve an entire trailer when employing aggressive interview techniques [Redacted] [Redacted] [Redacted]”³⁶

The FBI investigation into the agents’ formally solicited reports began on July 9, 2004 and was completed on September 23, 2004. The FBI did not refer any of the agents’ reports to the Department of Defense until December 15, 2004. That referral occurred only after the FBI learned on December 4, 2004 that the ACLU’s recent FOIA request was likely to cause the

³² [Positive Response Number 8, Responses-82]

³³ [Positive Response Number 21, Responses 214-215]

³⁴ Emphasis in original. [Positive Response Number 7, Responses-68]

³⁵ “Positive Response Number 4,” (RESPONSES-44 - 49)

³⁶ Positive Responses Number 4 RESPONSES-45

release of the FBI agents solicited complaints. The FBI's December referral to the Department of Defense included the ninety-three (93) solicited reports, but did not include the 118 unsolicited complaints that were made prior to the formal solicitation.

WHAT SENIOR DEFENSE DEPARTMENT OFFICIALS KNEW

There is some confusion as to when the FBI first formally alerted the Department of Defense to reported misconduct toward the detainees by Department of Defense Interrogators. On July 14, 2004, FBI Deputy Director T.J. Harrington sent to Major General Donald J. Ryder (then Provost Marshall of the Army) a partial disclosure of the reported abuses. The document described and attached two separate complaints, which were initially reported in 2002 by FBI agents in Guantánamo to the FBI Headquarters in Washington D.C. It is possible that the reports were sent at the time they were made; if so, no action was taken on them, thus leading to the July 14th report. It is also possible that the FBI withheld this information for almost two years. In any event, each of the complaints in the e mail to Major General Donald J. Ryder alleges serious mistreatment of detainees.

The first of these complaints describes an instance in which a Defense Department interrogator inflicted physical pain upon a detainee's hands and genitals while the detainee was shackled to the floor and unable to protect himself:

During late 2002, FBI Special Agent [REDACTED] was present in an observation room at GTMO and observed [REDACTED] (first name unknown) [REDACTED] conducting an interrogation of an unknown detainee. (SA [REDACTED] was present to observe the interrogation occurring in a different interrogation room). [REDACTED] entered the observation room and complained that curtain movement at the observation window was distracting the detainee, although no movement of the curtain had occurred. She directed a marine to duct tape a curtain over the two-way mirror between the interrogation room and the observation room. SA [REDACTED] characterized this action as an attempt to prohibit those in the observation room from witnessing her interaction with the detainee. Through the surveillance camera monitor, SA [REDACTED] then observed [REDACTED] position herself between the detainee and the surveillance camera. The detainee was shackled and his hands were cuffed to his waist. SA [REDACTED] observed [REDACTED] apparently whispering in the detainee's ear, and caressing and applying lotion to his arms (this was during Ramadan when physical contact with a woman would have been particularly offensive to a Moslem male). On more than one occasion the detainee appeared to be grimacing in pain, and [REDACTED]'s hands appeared to be making some contact with the detainee. Although SA [REDACTED] could not see her hands at all times, he saw them moving towards the detainee's lap. He also observed the detainee pulling away and against the restraints. Subsequently, the marine who had previously taped the curtain and had

been in the interrogation room with [REDACTED] during the interrogation re-entered the observation room. SA [REDACTED] asked what had happened to cause the detainee to grimace in pain. The marine said [REDACTED] had grabbed the detainee's thumbs and bent them backwards and indicated that she also grabbed his genitals. The marine also implied that her treatment of that detainee was less harsh than her treatment of others by indicating that he had seen her treatment of other detainees result in detainees curling into a fetal position on the floor and crying in pain.³⁷

The second complaint contained in General Ryder's email details an incident in which "a detainee's mouth was duct taped for chanting the Koran" while the "military employee who applied the duct tape found it amusing[.]"³⁸

These FBI complaints appear to be the only *unsolicited* complaints that the FBI ever forwarded to the Department of Defense. On December 15, 2004 the FBI made a formal submission to DOD of all of the responses that the FBI agents had made to the FBI solicitation of July 9, 2004. The FBI submission of December 15th, did not include any of the *unsolicited* complaints sent by the FBI agents stationed in Guantanamo while they were in Guantanamo.

There is no evidence that either the FBI or the Defense Department did anything with the remainder of the *unsolicited* complaints.

THE SCHMIDT REPORT AND ITS LIMITATIONS

1. *General Schmidt's Report*

Confronted with the FBI's solicited complaints, the Department of Defense directed Lieutenant General Randall M. Schmidt to initiate an investigation and draft a response.³⁹

³⁷ [Detainees 3823-3824, FBI_4622-4644.pdf] Although the Schmidt Enclosures contains a description of a similar incident, this event is never addressed in the Schmidt Report. [(M) SCHMIDT-FURLOW DEFERRED DOD 3756]

³⁸ [Detainees 3824, FBI_4622-4644.pdf] This incident is likely one and the same as a similarly described event appearing in the Schmidt Enclosures and Report. *See* Schmidt Report at 11-12. *See also* [(M) SCHMIDT-FURLOW DEFERRED DOD 3761] ("Agent [REDACTED] and I were watching an FBI interrogation in one of the interrogation trailers when [REDACTED] came into the observation booth. He was excited and stated that he had something to show us. I was curious, so I followed [REDACTED] down the hallway to an interrogation room. When I arrived at the interrogation room, I observed six or seven soldiers (or persons I believed were soldiers) laughing and pointing at something inside the room. When I looked inside the room I noticed a detainee with his entire head covered in duct tape (except for his eyes and maybe mouth). I asked [REDACTED] why the detainee's head was covered with duct tape? [REDACTED] stated because he (the detainee) refused to stop "chanting the Koran" during an interrogation session. When I asked [REDACTED] how he planned to take the tape off without hurting the detainee (the detainee had a beard and longed hair), [REDACTED] just laughed. I immediately informed Agent [REDACTED] and proceeded to notify the Criminal Investigation task Force attorney (either [REDACTED] I don't think [REDACTED] personally put the duct tape on the detainee's head, but I believe from his actions he directed the soldiers to do it.")

³⁹ [Army Regulation 15-6: Final Report, Investigation into FBI Allegations of Detainee Abuse at Guantánamo Bay, Cuba Detention Facility ("Schmidt Report"), Page 2] The Defense Department originally assigned this task to Brigadier General John T. Furlow, but General Schmidt eventually assumed responsibility for the investigation and

General Schmidt's quite limited task was to determine whether *an enumerated list* of types of conduct described in the *formally solicited* complaints were authorized *at any time* by the Army Field Manual.⁴⁰ The scope of General Schmidt's investigation was substantially limited by an explicit instruction to ignore any "allegations that are the subject of ongoing criminal investigations by the Army Criminal Investigation Division."⁴¹

These investigations are not public.⁴² The Army has released the results of a small number of closed investigations, including one that describes how a detainee was repeatedly thrown to the floor during an interrogation.⁴³ The Schmidt Report, however, does not mention that a detainee was ever thrown to the floor. The solicited responses included a description of such an incident.⁴⁴

The resulting report, *Investigation into FBI Allegations of Detainee Abuse at Guantánamo Bay, Cuba Detention Facility*, asserts that there is "no evidence" that "torture or inhumane treatment" occurred at Guantánamo, and further that only three instances occurred in which interrogation acts were "in violation of interrogation techniques authorized by Army Field Manual 34-52 and [Department of Defense] guidance."⁴⁵ The Schmidt Report stated that sufficient evidence did not exist to support agents' accounts that an interrogator groped a detainee's genitals or that a detainee pulled his own hair out due to the heat.⁴⁶

The Department of Defense voluntarily released the Schmidt Report, which the Department represented as a complete review of allegations of mistreatment and abuse at

authored the resulting report. [Army Regulation 15-6: Final Report, Investigation into FBI Allegations of Detainee Abuse at Guantánamo Bay, Cuba Detention Facility ("Schmidt Report"), Page 2]

⁴⁰ *Id.* at 3-4.

⁴¹ [Appointment Letter, BG Furlow, December 29, 2004, By: Bantz J. Craddock, General, US Army Commander, DOD 766-767, Exhibit 2, Schmidt-Furlow Enclosures.pdf] ("You are not to investigate allegations that are the subject of ongoing criminal investigations by the Army Criminal Investigative Division."). *See also* [Appointment Letter of Senior Investigative Officer for Lt. Gen. Randall Schmidt, February 28, 2005, By: Bantz J. Craddock, General, US Army Commander, DOD 768, Exhibit 3, Schmidt-Furlow Enclosures.pdf] ("Accordingly, you are to assume authority and control over BG Furlow's investigation and continue it until its conclusion. BG Furlow and his investigative team are to work directly for you for the duration, and will fold their existing work product into your investigation. The scope of the investigation, and rules under which it is to be conducted, remain the same as my original appointment memorandum for BG Furlow (Enclosure).")

⁴² "As a matter of policy, CID does not confirm when someone is the subject or suspect of an ongoing criminal investigation due to the person's Constitutional due process and Privacy Act rights." (<http://www.cid.army.mil/pages/faqs.html>, accessed 5/13/08).

⁴³ Obtained through FOIA litigation by ACLU. Document 1243_1382.pdf, ACLU website. Page number 1318 (page 76 in the adobe pagination).

⁴⁴ [Positive Response Number 7, Responses-71-72]

⁴⁵ [Army Regulation 15-6: Final Report, Investigation into FBI Allegations of Detainee Abuse at Guantánamo Bay, Cuba Detention Facility ("Schmidt Report"), Page 1] *See also*, [Alleged Guantánamo Abuse Did Not Rise to Level of 'Inhumane', By Kathleen T. Rhem, American Forces Press Service, <http://www.defenselink.mil/news/newsarticle.aspx?id=16651>] ("I do not, however, consider this treatment to have crossed the threshold of being inhumane," Air Force Lt. Gen. Randall Schmidt, the senior investigating officer, told members of Senate Armed Services Committee. Schmidt commands the Air Force component of U.S. Southern Command.)

⁴⁶ [Army Regulation 15-6: Final Report, Investigation into FBI Allegations of Detainee Abuse at Guantánamo Bay, Cuba Detention Facility ("Schmidt Report"), Pages 22-23; and Page 12]

Guantánamo Bay.⁴⁷ The Report has since been cited by the Defense Department and members of the Senate Armed Services Committee in support of the proposition that no detainee abuse occurred at Guantánamo.⁴⁸

2. *Omitted from the Schmidt Report*

The Schmidt Report omitted reference to nearly all of the unsolicited reports of mistreatment of prisoners, presumably because the FBI did not make those reports available to the Department of Defense. In addition, the Schmidt Report failed to address even some of the solicited FBI complaints that General Schmidt was specifically tasked to review. Since nothing was publicly known of the FBI's complaints of detainee mistreatment until the Schmidt Report's publication, however, it would be impossible to know what was missing from the report until FOIA litigation triggered the production of the actual FBI complaints.

The Schmidt Report neither evaluated nor referenced many of the FBI reports which had been forwarded to the Defense Department on December 15, 2004. Specifically, those FBI reports contain at least five (5) reports of physical beatings which the Schmidt Report does not address. For instance, the Schmidt Report makes no mention of the following account which was part of the December 15, 2004 referral:

When the detainee was brought in for the interview, [REDACTED] observed the detainee had a black eye, facial cuts around the nose area, and his fingers on both hands were taped up. The detainee, who spoke English, said words to the effect of 'they,' motioning to the Military Police

⁴⁷ [Alleged Guantánamo Abuse Did Not Rise to Level of 'Inhumane', By Kathleen T. Rhem, American Forces Press Service, <http://www.defenselink.mil/news/newsarticle.aspx?id=16651>]

⁴⁸ [Alleged Guantánamo Abuse Did Not Rise to Level of 'Inhumane', By Kathleen T. Rhem, American Forces Press Service, <http://www.defenselink.mil/news/newsarticle.aspx?id=16651>] ("Schmidt's report constitutes the 12th major review of detainee operations. In today's hearing, Virginia Sen. John Warner noted that the few cases of misconduct cited in the report should be viewed in the context of roughly 24,000 interrogations conducted at Guantánamo Bay since detention operations began there in early 2003.")

Before his publicized exit from the position of Deputy Assistant Secretary for Detainee Affairs, Cully Stimson explained this position in a January 10, 2007 interview on C-SPAN:

Caller: Hello, I am Andrew from Paramus. I guess what is disconcerting of Mr. Stimson, is how he brushes aside any concerns of Guantánamo and its impact on our foreign policy and the image of the United States. And that is what is concerning to me. What I would like is specifically for him to address the FBI agents who have gone to Guantánamo. Saw what was going on there, refused to participate in interrogations because of the abuses they saw, and the abuses they continued to see. These aren't ACLU types, these are FBI agents and I have never heard the administration clearly address those concerns. Thank you.

Cully Stimson: Um, the administration has addressed those concerns. In fact you can go to the DOD website, and read the Schmidt Furlough report. There are no abuses going on now. In the beginning of Guantánamo, we have been very candid with the public, there were incidents, minor, where people mistreated detainees. Those incidents were investigated. People were held accountable. The FBI agents are not seeing abuses at Guantánamo now. The Washington Post article later, or last week, was somewhat disingenuous in my opinion. The ... In 2002, in 2003, a FBI agent witnessed interrogation techniques that he was unfamiliar with as a law enforcement officer. He emailed headquarters, headquarters didn't respond, but what happened is, *the military took it upon itself to investigate those emails, and General Schmidt and General Furlough issued a report that is open for the world to see. It was issued about 2 years ago looking into those allegations. Some were found to be true, most were not found to be true. But you can read it for yourself* (emphasis added).

(MP) guards, had done this to him. A Colonel in charge of the MPs, whose name [REDACTED] could not recall, advised that the detainee's injuries were sustained in a scuffle due to the detainee's becoming non-compliant and had to be brought into compliance by a Rapid Response Team.⁴⁹

On this FBI report there is a handwritten note (presumably written by the FBI official who evaluated the report), which reads: "Why would it be necessary/reasonable [sic] to break fingers?"⁵⁰

The Schmidt Report also makes no mention of the following incident, in which a detainee was shown pornography:

[D]etainees advised me that they had been subjected to loud music to keep them awake and had been shown pornographic photos in an effort to upset them [...] these were techniques used by Department of Defense (DOD) contract interviewers. This was common knowledge among FBI employees and it was a topic as I recall that was discussed at staff meetings because it was sometimes detrimental to our efforts of attempting to establish rapport with the detainees.⁵¹

Additionally, the Schmidt Report fails to address at least four (4) instances of religious abuse, including the following incident, which was perpetrated upon a teenaged detainee.

Another interrogator (not sure if military or contractor or other) bragged about making Detainee # [REDACTED] listen to satanic black metal music for hours and hours. Then the interrogator dressed as a Catholic Priest and baptized the detainee in order to save him.⁵²

Since General Schmidt was instructed to investigate only certain types of abuse, and since he was specifically forbidden to address any conduct which was currently under criminal investigation, it may not be surprising that the Schmidt Report does not address many instances of abuse which FBI agents and others reported. This might explain why the Schmidt Report does not mention, for instance, an incident in which an interrogator "went across the desk" at a detainee.⁵³ It is impossible to know which of the reported incidents were "off limits" for General Schmidt's investigation insofar as they were the subject of criminal inquiry, because no public disclosure of criminal inquiries—let alone indictments—have been made as to any of the

⁴⁹ [Positive Response Number 8, Responses-82]

⁵⁰ *Id.*

⁵¹ [Responses Which Are Not Purely Negative-F, Responses 247-248]

⁵² [Positive Responses 4, Responses 44] *See also* [Positive Response 14, Responses-188] (quoted in note N) ("At that time I saw another detainee sitting on the floor of the interview room with an Israeli flag draped around him, loud music being played and a strobe light flashing. I left the room immediately after seeing this activity.").

⁵³ [(M) SCHMIDT-FURLOW DEFERRED DOD 3744] ("We physically removed an FBI agent when he went across the desk at a detainee.").

complaints. Even if Schmidt were conscientious within the parameters of his instructions, it is clear that his resulting Report cannot establish what it is sometimes said to prove: the absence of abuse at Guantánamo.

There are, however, reasons to doubt the accuracy of the Schmidt Report even within its own highly restricted confines.

3. *Buried Complaints: The Schmidt “Enclosures”*

In the course of General Schmidt’s investigation into the reports referred by the FBI on December 15, 2004, he discovered additional evidence of improper Defense Department interrogation techniques. The additional detainee abuses discovered by General Schmidt included the use of dogs, denial of food and water, beatings, threats, isolation, disorientation, and at least fifteen (15) incidents of sexual abuse. Yet, General Schmidt did not mention in his published report any of these additional incidents—uncovered by his own investigation—of detainee mistreatment at the hands of the Defense Department.

Instead, General Schmidt collected these other reports of abuses and placed them in a separate file, which he denominated as “Enclosures” and relegated to a separate appendix. The appendix was then *excluded* from the actual published report, as was any reference to the appendix, the “Enclosures” or the underlying abuses themselves. From the published record, therefore, these additional reports of abuses were unknown and unknowable, and would have remained hidden but for the FOIA litigation which ultimately required their production.

General Schmidt not only relegated these findings to an unpublished appendix, but he also failed to mention them in his testimony before Congress. Thus, the burial of these reports in the unpublished appendix meant that neither Congress nor the public could not know that General Schmidt and General Furlow knew of the seventy-nine (79) instances of abuse described in the “Enclosures”—including the use of dogs, denial of food and water, beatings, threats, isolation, disorientation, and at least fifteen (15) incidents of sexual abuse.

Although the “Enclosures,” along with both the solicited and unsolicited FBI complaints, generally establish that the use of objectionable interrogation techniques by the Defense Department was widespread, the Schmidt Report concludes just the opposite—ultimately declaring that there was “no evidence of torture or inhumane treatment” at Guantánamo.

Given that the “Enclosures” resulted from General Schmidt’s own investigation, not only was testimony to Congress that no inhumane treatment occurred at Guantánamo inaccurate but there is reason to question why he would make a statement so greatly at variance with his own investigation.

CONCLUSION

Although FBI agents described hundreds of instances of improper conduct by Defense Department interrogators at Guantánamo Bay, and senior FBI officials were privy to such reports as early as 2002, the FBI did not confront the Department of Defense with the agents' complaints until more than two years later in 2004—and even then, the FBI provided the Department with less than half of those complaints. In response, the Defense Department has produced a staggeringly incomplete and therefore inaccurate report—upon which Congress has relied—that summarily concludes that there has been “no evidence of torture or inhumane treatment at Guantánamo.

APPENDIX 1

DESCRIPTION OF METHODS—CATEGORIES IN DEPTH

This appendix defines each category of treatment and provides an example of each. Every example is a quote from one of the three data sources: the solicited responses, the unsolicited responses, or the Schmidt Enclosures.

- 1) Beatings. Harmful physical contact or evidence of such contact.

During the interview, SA [REDACTED] and the soldier heard banging sounds similar to claps of thunder, but were perplexed by the sounds since there had not been any indication of rain when they entered the interviewing facility. They decided to exit the facility to investigate the sounds. As SA [REDACTED] and the soldier were exiting the interviewing facility, they noticed a detainee on the floor in another interviewing room, “crumpled over,” and crying. SA [REDACTED] asked the personnel in the interviewing room, all of whom appeared to be military personnel based on their uniforms, what had happened. SA [REDACTED] recalled that the military personnel may have responded that the detainee had thrown himself to the floor. SA [REDACTED] observed that the detainee’s nose appeared to be bleeding. SA [REDACTED] did not see or hear anything else about the incident that disputed the account offered by the military personnel present in the room. SA [REDACTED] did note that when he exited the facility, there was no indication of thunder outside. The lack of thunder caused him to wonder about the noises he had heard.

[Positive Response Number 7, Responses-71-72]

- 2) Use of military dogs during interrogations. Uses of military dogs for non-interrogation purposes, such as for patrolling the area, were not counted.

A military working dog (MWD) was brought into the interrogation booth of a high value detainee [REDACTED] on or about October 2002. The MWD was brought to the entrance of the interrogation booth by the dog’s handler and directed to bark and growl at the detainee.

[(M) SCHMIDT-FURLOW DEFERRED, DOD 3751]

- 3) Threats. Verbal statements that threaten the detainee.

That [REDACTED] showed [REDACTED] fake letter from the White House that spelled out his authorization to make [REDACTED] disappear. MG Miller stated that had he known of the threats to [REDACTED] his family, he would never have allowed it.

[(M) SCHMIDT-FURLOW DEFERRED DOD 3780]

If this detainee is ever released or his story made public in any way, DOD interrogators will not be held accountable because these torture techniques were done (by) the “FBI” interrogators. The FBI will be left holding the bag before the public. [Detainees-3168, FBI. 121504.3977.pdf]

- 4) In my opinion, ISN [REDACTED] was never physically abused during the execution of the special interrogation plan. He may have been subjected to some mental anguish.

[Schmidt-Furlow Enclosures, DOD 848]

- 5) Extreme hot or cold temperatures. Intentional manipulation of the thermostat in order to cause discomfort or pain to a detainee.

On one occasion (sic), the air conditioning had been turned down so far and the temperature was so cold in the room, that the barefooted detainee was shaking with cold. [Positive Response 1, Responses-10]

- 6) Shouting. An interrogator raises his or her voice at a detainee.

MG Miller stated that he was aware of the following: that detainees were yelled at and that music was used in interrogations.

[(M) SCHMIDT-FURLOW DEFERRED DOD 3780]

- 7) Use of noise or music. Playing of western music, usually at loud volumes, in order to disorient the detainee. Does not include music played as a reward, such as cultural music played at low volumes.

I occasionally saw sleep deprivation interviews with strobe lights and two different kinds of loud music. I asked one of the interrogators what they were doing and they said that it would take approximately four days to break someone doing an interrogation. 16 hours on with the lights and music and four hours off. The sleep deprivation and the lights and alternating beats of the music would wear the detainee down.

[Positive Response Number 4, Responses 44]

- 8) Sleep deprivation. Includes instances of “sleep adjustment” and 20-hour interrogations.

With this particular technique, identified detainees were moved frequently from cell block to cell block at intervals that appeared to be every hour or every two hours... Due to the movement to different cells the detainees had their sleep interrupted throughout a 24 hour period.

[Responses Which Are Not Purely Negative L, Responses 260-261]

- 9) Use of strobe lights. This technique was frequently used in tandem with other techniques.

The adjoining room, observable from the monitoring booth, was occupied by 2 DHS investigators showing a detainee homosexual porn movies and using a strobe light in the room.

[Detainees-2600, 2600.pdf]

10) Isolation. A detainee is separated from the general detainee population.

One detainee was kept in the cell in isolation for an extended period of time, I think up to 30 days.

[Responses Which Are Not Purely Negative K, Responses-258]

11) Nudity and sexual imagery. Includes the physical nudity of a detainee, as well as sexual interrogation practices that do not involve physically touching the detainee, such as showing homosexual pornography.

On two or three occasions[...]detainees advised me that they had been subjected to loud music to keep them awake and had been shown pornographic photos in an effort to upset them. This was common knowledge among FBI employees and it was a topic[...]that was discussed at staff meetings because it was sometimes detrimental to our efforts of attempting to establish rapport with detainees.

[Responses Which Are Not Purely Negative F, Responses 247-248]

12) Sexual abuse. Sexual interrogation practices that involve physical contact with the detainee.

I had an interrogator that exceeded the bounds. It was a female interrogator who took off her BDU shirt and inappropriately rubbed on the detainee.

[(M) SCHMIDT-FURLOW DEFERRED DOD 3774]

13) Religious mistreatments. Disrespect to religious symbols such as the Koran. Refusal to allow the detainee to pray. Also includes physical contact with the bodies of detainees if this contact was done with the purpose to make the detainee unclean.

Another interrogator (not sure if military or contractor or other) bragged about making Detainee #114 listen to satanic black metal music for hour and hours. Then the interrogator dressed as a Catholic Priest and baptized the detainee in order to save him.

[Positive Response 4, Responses-44]

14) Denial of food or water. This technique is usually mentioned as part of prolonged shackling, in which the detainee is not fed while he is shackled.

After the initial 25 minutes of yelling, [REDACTED] was left alone in the room in this condition for approximately 12 hours[.] During the 12 hours, [REDACTED] was not permitted to eat, pray, or use the bathroom.

[Positive Response 21, Responses-214]

- 15) Extreme confinement. This category includes instances in which detainee movement is restrained in various non-traditional ways (other than the techniques described in this appendix). Extended interrogation and the wrapping of a detainee's head in duct tape are included here.

The technique was to leave a detainee shackled in an interrogation room for an extended period of time, twelve hours or more, and either turn the air conditioner to its lowest temperature or off. Supposedly, the detainees were not removed from the rooms even to relieve themselves.

[Positive Response Number 13, Responses 181]

When I looked inside the room I noticed a detainee with his entire head covered in duct tape (except for his eyes and maybe mouth).

[(M) SCHMIDT-FURLOW DEFERRED DOD 3761]

- 16) Stress positions. Forcing detainees to hold an uncomfortable position for an extended period of time. This category includes all references to short shackling.

[D]uring the summer of 2002, [REDACTED] walked into a camp Delta observation room and noticed a detainee in an interview room[...]handcuffed with cuffs chained to his waist. [REDACTED] advised the chains were adjusted to force the detainee to stand in a "baseball catcher" position.

[Positive Response Number 6, Responses 62]

- 17) Hooding. Hooding the detainee such that no light can enter his eyes.

A detainee was led into an interview room by hooded MPs. The detainee was also hooded and the hood was removed by the MPs for the interview.

[Responses Which Are Not Purely Negative H, Responses-253]

APPENDIX 2

FBI COMPLAINTS

This appendix is a collection of quotes from the unsolicited responses and the solicited responses. It illustrates FBI agents' concerns about Department of Defense interrogation techniques. For a collection of quotes taken from the Schmidt Enclosures, please see Appendix 3.

A. Solicited Responses

- Detainees-3168, FBI.121504.3977.pdf
 - o "If this detainee is ever released or his story made public in any way, DOD interrogators will not be held accountable because these torture techniques were done the "FBI" interrogators. The FBI will left holding the bag before the public."
- Detainees-2600, 2600.pdf
 - o "Last evening I went to observe an interview of [REDACTED] with [REDACTED]. The adjoining room, observable from the monitoring booth, was occupied by 2 DHS investigators showing a detainee homosexual porn movies and using a strobe light in the room. We moved our interview to a different room."
- Detainees- 3823-3825, FBI_4622_4624.pdf
 - o "Subsequently, the marine who had previously taped the curtain and had been in the interrogation room with [REDACTED] during the interrogation re-entered the observation room. SA [REDACTED] asked what had happened to cause the detainee to grimace in pain. The marine said [REDACTED] had grabbed the detainee's thumbs and bent them backwards and indicated that she also grabbed his genitals."
- Detainees-3649, FBI_4645_4647.pdf
 - o Another time "a detainee's mouth was duct taped for chanting from the Koran[;] military employee who applied the duct tape found it amusing[.]"
- Detainees-1414-1415, FBI_4737_4738.pdf
 - o "At that time I saw another detainee sitting on the floor of the interview room with an Israeli flag draped around him, loud music being played, and a strobe light flashing."
- Detainees-1760, FBI.121504.5053.pdf
 - o "On a couple of occasions, I entered interview rooms to find a detainee chained hand and foot in a fetal position to the floor, with no chair, food, or water. Most times they had urinated or defecated on themselves, and had been left there for 18 to 24 hours or more."

- Detainees 2715, 2715.pdf
 - o “Based on Rumsfeld’s public statements, DOD is against hooding prisoners, threats of violence and techniques meant to humiliating detainees (there is a list I have seen). I know these techniques were approved at high level w/in DOD and used against [REDACTED] and [REDACTED].”

B. Solicited Responses

- Positive Response Number 4, Responses-44
 - o “I occasionally saw sleep deprivation interviews with strobe lights and two different kinds of loud music. I asked one of the interrogators what they were doing and they said that it would take approximately four days to break someone doing an interrogation. 16 hours on with the lights and music and four hours off. The sleep deprivation and the lights and alternating beats of the music would wear the detainee down. There was a time period where the interrogations were obtrusive enough that the interview rooms for an entire trailer were not available if one of these techniques were being utilized.”
- Positive Response Number 6, Responses-62
 - o “[D]uring the summer of 2002, [REDACTED] walked into a camp Delta observation room and noticed a detainee in an interview room[...]handcuffed with cuffs chained to his waist. [REDACTED] advised the chains were adjusted to force the detainee to stand in a “baseball catcher’s position[.]”
- Positive Response Number 7, Responses 71-72
 - o “During the interview, SA [REDACTED] and the soldier heard banging sounds similar to claps of thunder, but were perplexed by the sounds since there had not been any indication of rain when they entered the interviewing facility. They decided to exit the facility to investigate the sounds. As SA [REDACTED] and the soldier were exiting the interviewing facility, they noticed a detainee on the floor in another interviewing room, “crumpled over,” and crying. SA [REDACTED] asked the personnel in the interviewing room, all of whom appeared to be military personnel based on their uniforms, what had happened. SA [REDACTED] recalled that the military personnel may have responded that the detainee had thrown himself to the floor. SA [REDACTED] observed that the detainee’s nose appeared to be bleeding. SA [REDACTED] did not see or hear anything else about the incident that disputed the account offered by the military personnel present in the room. SA [REDACTED] did note that when he exited the facility, there was no indication of thunder outside. The lack of thunder caused him to wonder about the noises he had heard.”
- Positive Response Number 10, Responses-173
 - o “I was situated in the observation booth in between two interview rooms, observing an interview which included at least one FBI SA, and possibly a colleague of his from one of the other agencies with investigative personnel assigned there at the time. The booth was quite crowded because there were

several individuals present who were observing an “interview” in the room on the other side of the booth. In that room, the detainee was seated in a chair and was secured in the same method as I’d seen for all of the other detainees, shackled at his feet so that he could not leave the room. However, there wasn’t much talking going on, because the lights had been turned off and a strobe light was flickering on and off, and loud rock music was being played. I estimate that this went on for 30 to 60 minutes. I was told by quite a few FBI personnel that tactics such as this were quite common there at the time. This was the only such event that I observed directly.”

- Positive Response Number 13, Responses-181
 - o “I was TDY in Guantánamo from February 10 to March 27, 2003. While there, I heard through the usual rumor mill (other agents, military counterparts) about a technique used by military interrogators which was not allowed to be used by Agents. The technique was to leave a detainee shackled in an interrogation room for an extended period of time, twelve hours or more, and either turn the air conditioner to its lowest possible temperature or off. Supposedly, the detainees were not removed from the rooms even to relieve themselves. This was only used for the difficult detainees who would not cooperate.”
 - o “One day while I was in one of the interrogation buildings, I was in one of the observation rooms which looked into two interrogation rooms. I was in this room because the detainee I was interviewing was in one of the interrogation room observed from this room. Laying on the floor of the other interrogation room was a detainee. I believe this detainee was subject to the above mentioned extended stay in the interrogation room.”

- Positive Response Number 14, Responses-188
 - o “Following a detainee interview exact date unknown, while leaving the interview building at Camp Delta at approximately 8:30 p.m. or later, I heard and observed in the hallway loud music and flashes of light. I walked from the hallway into the open door of a monitoring room to see what was going on. From the monitoring room, I looked inside the adjacent interview room. At that time I saw another detainee sitting on the floor of the interview room with an Israeli flag draped around him, loud music being played and a strobe light flashing. I left the monitoring room immediately after seeing this activity. I did not see any other persons inside the interview room with the Israeli flag draped detainee, but suspect that this was a practice used by DOD DHS since the only other persons inside the hallway near this particular interview room were dressed in green military fatigues similar to the ones worn by DOD DHS and the DOD MP Uniformed Reservists.”

- Positive Response 19, Responses-212
 - o “The room was completely dark and there was a flashing strobe light placed in front of the detainee and a stereo was playing loud music in the room.”

- Positive Response 20, Responses 213

- “I am responding via e-mail because I was aware of a practice of interrogating detainees which I did not feel was appropriate. During my short TDY at GTMO in July 2002, I took part in some discussions about a practice which had been utilized in which the detainee would be placed in the interview room approximately 6-8 hours prior to the scheduled interview. The air conditioning in the room would be turned down to as low as 55 degrees. It was common practice to have the detainees restricted from movement with handcuffs, legcuffs, and a chain bolted to the floor, which would prevent them from moving around the room, which in this case would prevent them from adjusting the air conditioning temperature.”
- Positive Response 21, Responses 214
 - “Sometime in the second or third week of February of 2004, [REDACTED] was taken to reservation. [REDACTED] was on both FBI and NAE hold.) He[...] was yelled at for 25 minutes was short shackled, the room temperature was significantly lowered, strobe lights were used, and possible loud music[...] after the initial 25 minutes of yelling, [REDACTED] was left alone in the room in this condition for approximately 12 hours[.] During the 12 hours, was not permitted to eat, pray, or use the bathroom.”
- Response F, Responses 247-248
 - "On two or three occasions, during regularly scheduled interviews, detainees advised me that they had been subjected to loud music to keep them awake and had been shown pornographic photos in an effort to upset them. I have no knowledge that these activities were done by FBI employees and was (sic) under the impression that these were techniques used by DOD contract interviewers. This was common knowledge among FBI employees and it was a topic as I recall that was discussed at staff meetings because it was sometimes detrimental to our efforts of attempting to establish rapport with detainees. I also recall that translators (who worked with both FBI and DOD interviewers) also confirmed the allegations of the detainees regarding sleep deprivation."
- Response H, Responses-253
 - "The detainee was also hooded and the hood was removed by the MPs for the interview. This procedure was not under our direction. This happened on two occasions."
- Response J, Responses-255
 - "In one of the other interrogation rooms was a detainee sitting in a chair alone in the room. The glass/2 way mirror was very warm to the touch, as if the room temp. was high in the interrogation room. The detainee appeared to be sleeping in the chair. The next day while getting a chair in the observation room I observed what appeared to be the same detainee in the same room. The window felt very cool that morning, as if the room temp. was low. Again the detainee was alone and appeared to be sleeping in the room."

- Response K, Responses-258
 - o "I did become aware that the interview rooms were kept pretty cold and that interviewees were kept in those rooms for the extended periods of time. Additionally, [REDACTED] one detainee was kept in the cell in isolation for an extended period of time, I think up to 30 days."

- Response L, Responses 259-360
 - o "Detainees could be identified to be placed on a list for a specific interrogation technique involving interruption of sleep pattern, called "frequent flyer program."
 - o "With this particular technique, identified detainees were moved frequently from cell block to cell block at intervals that appeared to be every hour or every two hours depending on the shifts and availability of military personnel to move the detainee. Detainees were moved along with all of their personal belongings. Due to the movement to different cells the detainees had their sleep interrupted throughout a 24 hour period. The duration of the program for particular detainees seemed to depend on the cooperativeness of the detainee[...]I did observe on the detainee movement database, some detainees were on the movement records moving approximately every hour or every two hours."

APPENDIX 3

SYSTEMATIC INTERROGATION TECHNIQUES ACCORDING TO THE SCHMIDT ENCLOSURES

In general, this report relies on individual examples to show that abuse of detainees existed at Guantánamo. Because of redactions, it is impossible to tell how frequently these techniques were employed. The graphs in the body of the report which illustrate the percentages of abuse categories show the percentages of times these types of abuse were discussed and not performed.

This appendix uses quotes from the Schmidt Enclosures to show that three specific types of coercive interrogation techniques were performed frequently enough to escape the labels “freak occurrence” or “a few bad apples.” Interrogations using sexual tension, sleep deprivation, and sensory overload were common. Furthermore, intimidation of detainees with dogs apparently occurred more frequently than the Schmidt Report seeks to portray.

Examples in this Appendix are largely taken from Department of Defense personnel and contractors. Ranks, where available, are included in the footnotes.

Sexual Tension

One use of sexual tension was to have a female interrogator rub perfume or lotion onto the detainee.⁵⁴ The sexual nature of the rubbing is apparent in that various Defense Department personnel refer to the lotion rubbing as a “lap dance.”⁵⁵ The Muslim detainees found this contact offensive because it made them unclean and prevented them from praying. One detainee struggled so violently to avoid the contact that he chipped his tooth on a chair.⁵⁶

I never performed a ‘lap dance’ on a detainee. [REDACTED] Both times the technique was authorized and/or suggested by [REDACTED], the Interrogation Control (ICE) Chief. The first incident occurred when my partner and I were interrogating a detainee who refused to stop praying. The translator mentioned that he couldn’t pray if he were ‘unclean.’ Mr. [REDACTED] instructed me to purchase some perfumed lotion and rub it

⁵⁴ *Summarized Witness Statement of MAJ [REDACTED]*, Former Psychiatrist with the Behavioral Science Consultation Team (BSCT) [(M) SCHMIDT-FURLOW DEFERRED DOD 3771] (“I did see female interrogators use scented perfumes or oils on their fingertips so that when the interrogator touched a detainee that the oil or scent would be hard to wash off. It was hoped, would be frustrating, disconcerting, embarrassing to the detainee. It was done again to enforce a commonly used ‘futility approach.’”)

⁵⁵ *Summarized Witness Statement of [REDACTED]*, Joint Interrogation Group Chief [Schmidt-Furlow Enclosures, DOD 839] (“I am aware that [REDACTED] was given a Letter of Reprimand by LTC [REDACTED] for her involvement, as the NCOIC, of the “lap dance” incident. She was one of the best interrogators. In fact, I believe that Major General Miller sponsored her so she could obtain a commission.”)

⁵⁶ *Summarized Witness Statement of [REDACTED]*, Interrogation Control Element (ICE) Chief for Joint Task Force 170th [(M) SCHMIDT-FURLOW DEFERRED DOD 3753] (“I instructed [REDACTED] to purchase cheap perfume at the PX (rose oil) [...] the detainee became violent and attempted to attack [REDACTED]. In the process, the detainee hit his mouth on the chair and chipped his tooth.”)

on the detainee. I only rubbed the detainee's arms. Mr. [REDACTED] verbally approved the technique.⁵⁷

It is unclear how often lotion was rubbed onto detainees. The Schmidt Report claimed that this behavior was authorized, and that it happened only once.⁵⁸ In an interview with General Schmidt, General Miller claimed that he only knew of one incident in which an interrogator touched a detainee with perfume, and that the interrogator was punished. He characterized the incident as a "good faith mistake," one of a "handful of occurrences."⁵⁹ However, quotes taken from General Schmidt's own investigation show that that rubbing a detainee with oil or perfume happened more than once, and probably many times.⁶⁰ For instance, the interrogator who grabbed the crotch of a detainee and bent his thumbs back used lotion.⁶¹

Regardless of whether or not this particular technique was approved, the use of sexual tension in general was definitely approved, and even encouraged. "Tiger Team University" was a three week training camp that the new interrogators would attend before transfer to Guantánamo.⁶² Female interrogators in training were taught to take advantage of their gender by touching a detainee's shoulder and knee, and then leaning in to whisper into his ear.

⁵⁷ *Summarized Witness Statement of SGT [REDACTED]*, Interrogator [Schmidt-Furlow Enclosures, DOD 842]. Details of the second incident are redacted.

⁵⁸ [Army Regulation 15-6: Final Report, Investigation into FBI Allegations of Detainee Abuse at Guantánamo Bay, Cuba Detention Facility ("Schmidt Report"), at 7]

⁵⁹ *Summarized Witness Statement of Major General Geoffrey D. Miller*, [(M) SCHMIDT-FURLOW DEFERRED, DOD 3774] ("We had incidences of good faith mistakes. We stopped them[...]It was a handful of occurrences[...]I had an interrogator that exceeded the bounds. It was a female interrogator who took off her BDU shirt and inappropriately rubbed on the detainee. The female rubbing was brought to my attention by a contract interrogator. We pulled her out. We found she did cross boundaries. She was given an administrative Letter of Reprimand and retained her.") (sic); *see also Summarized Witness Statement of Lt Col [REDACTED]*, former Interrogation Control Element (ICE) Chief [Schmidt-Furlow Enclosures, DOD 848] ("SGT [REDACTED] rubbed up against the detainee and was told not to use the technique again. SSG Scarpato received a written admonishment from [REDACTED] for this event.")

⁶⁰ *Summarized Witness Statement of SGT [REDACTED]*, Interrogator [Schmidt-Furlow Enclosures, DOD 858] ("SGT [REDACTED] described how she used either perfume or Vaseline during interrogations. According to SGT [REDACTED] she would put the lotion/perfume in her hand and then rub the detainee's hand and arms. (In fact, SGT [REDACTED] stated that she used Victoria Secret perfume so the detainee's would smell like a woman."); *see also Summarized Witness Statement of MAJ [REDACTED]*, Former Psychiatrist with the Behavioral Science Consultation Team (BSCT) [(M) SCHMIDT-FURLOW DEFERRED, DOD 3771] ("I did see female interrogators use scented perfumes or oils on their fingertips so that when the interrogator touched a detainee that the oil or scent would be hard to wash off.")

⁶¹ [(M) SCHMIDT-FURLOW DEFERRED DOD 3756] ("I witnessed SGT [REDACTED] placing lotion in her hand and touching a detainee. She was whispering in the detainee's ear as her hand traveled to the detainee's lap. I didn't see her hands (because her body obstructed my view) touch the detainee's groin, but the detainee started to grimace in pain. Later, a Marine told me that SGT [REDACTED] bent the detainee's thumbs back. He went on to say that 'if you think that this is bad, she has done worse.'")

⁶² *Summarized Witness Statement of 2LT [REDACTED]*, NCOIC of the Interrogation Control Element [Schmidt-e Enclosures, DOD 843] ("Prior to deploying to JTF-GTMO, I completed a three-week 'refresher course' at Fort Huachuca called 'Tiger Team University'... I heard about the use of female interrogators encroaching on a detainee's personal space while attending Tiger Team University. A former JTF-GTMO instructor described how a 'SGT [REDACTED]' used her gender, being a female, as an asset during interrogation sessions with a high value detainee. The instructor described how [REDACTED] touched a detainee on the shoulder and knee, leaned in close to the detainee's face, and whispered comments or questions in his ear.")

There are descriptions of other kinds of sexual interrogation at Guantánamo. An interrogator straddled a detainee, an interrogator massaged a detainee's back and neck, an interrogator touched and held a detainee's hand against his will, and an interrogator told a detainee that she was menstruating and showed him red ink on her hand. It is not clear whether or not these techniques were encouraged or if they happened more than once. However, it is significant that the Schmidt Report found that all of these tactics were in fact approved interrogation techniques.⁶³

MPs held down a detainee while [REDACTED] straddled the detainee without placing weight on the detainee.⁶⁴

SGT [REDACTED] massaged the detainee's back and neck over his clothing.⁶⁵

I did see SGT [REDACTED] touching and holding a detainee's hand during an interrogation session. She was invading his space. It was clearly upsetting the detainee.⁶⁶

She touched the detainee on his shoulder, showed him the red ink on her hand and said by the way, I am menstruating. The guy threw himself on the floor and started to bang his head because he was so freaked out by the ink.⁶⁷

Sleep Deprivation and Sensory Overload

The Schmidt Report recognizes that "sleep adjustment" (meaning "sleep deprivation"), was employed at Guantánamo Bay.⁶⁸ Detainees were awakened in the middle of the night and forced to move from cell to cell in order to disrupt sleep patterns. This technique was known as the "frequent flyer program."⁶⁹

It also appears that interrogators used another form of sleep deprivation which Schmidt did not recognize. In this technique, detainees would be chained to the floor for hours on end, possibly for more than twenty-four hours at time. They would be prevented from sleeping by extreme temperatures, strobe lights, and loud music. An FBI agent describes the effect of this type of interrogation:

⁶³ [Army Regulation 15-6: Final Report, Investigation into FBI Allegations of Detainee Abuse at Guantánamo Bay, Cuba Detention Facility ("Schmidt Report"), at 7, 8, 15, 16]

⁶⁴ *Summarized Witness Statement of Major General Geoffrey D. Miller*, [M SCHMIDT-FURLOW DEFERRED, DOD 3779]. This quote and the one following are taken from an interrogation log.

⁶⁵ *Id.*

⁶⁶ *Summarized witness Statement of [REDACTED]*, Special Agent for the FBI [(M SCHMIDT-FURLOW DEFERRED, DOD 3775)]

⁶⁷ *Summarized Witness Statement of MAJ [REDACTED]*, Former Operations Officer [Schmidt-Furlow Enclosures, DOD 846]

⁶⁸ [Army Regulation 15-6: Final Report, Investigation into FBI Allegations of Detainee Abuse at Guantánamo Bay, Cuba Detention Facility ("Schmidt Report"), at 10]

⁶⁹ *Id.*

On a couple of occasions, I entered interview rooms to find a detainee chained hand and foot in a fetal position to the floor, with no chair, food, or water. Most times they had urinated or defecated on themselves, and had been left there for 18, 24 hours or more. On one occasion, the air conditioning had been turned down so far and the temperature was so cold in the room, that the barefooted detainee was shaking with cold. When I asked the MP's what was going on, I was told that interrogators from the day prior had ordered this treatment, and the detainee was not to be moved. On another occasion, the A/C had been turned off, making the temperature in the unventilated room probably well over 100 degrees. The detainee was almost unconscious on the floor, with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night. On another occasion, not only was the temperature unbearably hot, but extremely loud rap music was being played in the room, and had been since the day before, with the detainee chained hand and foot in the fetal position on the floor.⁷⁰

Another FBI agent notes that, while the detainees were left in this situation, they were not allowed to eat, drink, pray, sleep, or go to the bathroom.⁷¹

The Schmidt Report acknowledges that sensory overload techniques were used. Interrogators left detainees in their interrogation rooms with loud music playing and strobe lights flashing “for an indefinite period of time.”⁷² Interrogators turned the air conditioner to uncomfortably cold or hot settings.⁷³

Furthermore, the Schmidt Report concedes that detainees were short shackled in interrogations rooms on at least two occasions. “Short shackling” means that the detainees’ hands were chained to his feet such that he could not rise above a squat and often lay on the floor in a fetal position.⁷⁴ This technique is one of only three techniques that Schmidt determined were never authorized.⁷⁵

Regardless of how often short shackling was used, detainees were always chained to the ground during interrogations.⁷⁶ General Miller claims that this was done for security purposes.⁷⁷

⁷⁰ [Positive Response 1, Responses-10] Note that this email is a member of the “solicited responses” data set, not the “Schmidt Enclosures” data set. The same goes for every other quote cited to a Positive Response.

⁷¹ Email from an FBI agent [Positive Response 21, Responses-214] (“[REDACTED] was short-shackled, the room temperature was significantly lowered, strobe lights were used, and possibly loud music[...]After the initial 25 minutes of yelling, [REDACTED] was left alone in the room in this condition for approximately 12 hours[...]During the 12 hours, [REDACTED] was not permitted to eat, pray, or use the bathroom.”)

⁷² [Army Regulation 15-6: Final Report, Investigation into FBI Allegations of Detainee Abuse at Guantánamo Bay, Cuba Detention Facility (“Schmidt Report”), at 9]

⁷³ *Id.* at 9-10.

⁷⁴ *Id.* at 12.

⁷⁵ *Id.* at 27. The other two techniques that Schmidt determined were never authorized were threats, and the wrapping of a detainee’s head in duct tape. *Id.*

⁷⁶ *Summarized Witness Statement of Major General Geoffrey D. Miller, Commanding General for the Joint Task Force, Guantánamo Bay, Cuba [(M SCHMIDT-FURLOW DEFERRED, DOD 3776] (“Short shackling. While I was there the detainees were chained to the eye-bolt for security. Every interrogator saw the detainee’s legs and feet.”)*

Since detainees were always chained to the floor, they would be unable to adjust the thermostat or turn off the strobe lights or music. Hence, when detainees were left for hours chained to the floor with strobe lights, music and extreme temperature, they would be unable to sleep.

This technique was performed frequently enough to be considered standard practice. One FBI agent reported that “often DOD personnel would reserve an entire trailer when employing aggressive interview techniques.”⁷⁸ General Schmidt in his Report admits that almost everyone he talked to knew about loud music used during interrogations. He also states that detainees were sometimes left alone with music and strobe lights flashing.⁷⁹

Even though strobe lights and loud music were common at Guantánamo, only one Defense Department employee claims that sleep deprivation was used at Guantánamo.⁸⁰ This reticence might be due to three different causes. The first is that, to leave a detainee alone in a room with loud music, flashing strobe lights and extreme temperatures for an extended amount of time, is a tactic that was not used as frequently as it was used for shorter amounts of time. This reason seems to be intuitively true, but due to redactions there is no evidence to support this theory.

The second possible reason that sleep deprivation was not reported is that redactions can hide information harmful to the reputation of the Department of Defense. In other words, a person could have described sleep deprivation practices, and that content could have been redacted because it would harm the image of the Defense Department. Indeed, for the one interrogator who said “I believe sleep deprivation was used during interrogations,” the sentence following that statement is redacted.⁸¹ Apparently that sentence would have disclosed why this interrogator believed sleep deprivation was utilized.

The third reason why only one person cited sleep deprivation is that the definition of “sleep deprivation” changed wildly from individual to individual. What one might consider sleep deprivation, another might not.

I define ‘sleep deprivation’ as keeping a detainee awake continuously for five or six day’s straight. Based on my definition of sleep deprivation, I never authorized or witnessed the use of “sleep deprivation” in an interrogation session or approved interrogation plan.⁸²

⁷⁷ *Id.*

⁷⁸ [Positive Response 4, Responses-45]

⁷⁹ [Army Regulation 15-6: Final Report, Investigation into FBI Allegations of Detainee Abuse at Guantánamo Bay, Cuba Detention Facility (“Schmidt Report”), at 9] (“Almost every interviewee stated that yelling and the use of loud music were used for interrogations at GTMO. On a few occasions, detainees were left alone in the interrogation booth for an indefinite period of time while loud music played and strobe lights flashed. The vast majority of yelling and music was accomplished with interrogators in the room.”)

⁸⁰ *Summarized Witness Statement of SGT [REDACTED]*, Interrogator [Schmidt-Furlow Enclosures, DOD 858] (“I believe sleep deprivation was used during interrogations.”)

⁸¹ *Id.*

⁸² *Summarized Witness Statement of [REDACTED]*, Interrogation Control Element Chief [(M) SCHMIDT-FURLOW DEFERRED, DOD 3752]

I did not observe sleep deprivation used by interrogators. When I first arrived in GTMO, the standing rule was a detainee couldn't be interrogated for "more than 20 hours in a row."⁸³

One of the key components of the new parameters was the restriction of interrogation sessions to 15 hours. The detainee was allowed 5 hours of uninterrupted sleep. Therefore, interrogations of [REDACTED] were limited to no more than 15 hours. I can't remember any interrogator setting up a 15-hour interrogation.⁸⁴

Along with the definition of sleep deprivation, the definition of "interrogation" is ambiguous. A Former Operations Officer for the Defense Department stated that detainees were short-shackled in the interrogation room for an extended amount of time following the interrogation, but apparently did not count this extra time as part of the interrogation itself:

I am not aware of short shackling being used in an interrogation. The detainee might be left in the booth for an extended period of time after interrogations awaiting MPs. The short chain was done as a control measure. The chain was close to the floor. The interrogator would ask the MPs to put the detainee in that position.

The Operations Officer did not state whether or not interrogators would play loud music and turn the air conditioning on high while the detainees waited in the rooms after interrogations.

Use of Dogs

The Schmidt Report confirms that a dog was used for intimidation purposes in one instance during a Special Interrogation Plan.⁸⁵ Statements by military personnel imply that dogs were used more often than once. One interviewee implies that, although he only saw dogs being used to intimidate one particular detainee, dogs were used on more than one occasion.⁸⁶ More notably, General Dunlavey, the former commander of Guantánamo prior to General Miller, claims that dogs were present in interrogation rooms whenever they were not on patrol.

⁸³ *Summarized Witness Statement of 2LT [REDACTED]*, NCOIC of the Interrogation Control Element [Schmidt-Furlow Enclosures, DOD 843]

⁸⁴ *Summarized Witness Statement of MAJ [REDACTED]*, Former Operations Officer [Schmidt-Furlow Enclosures, DOD 846]

⁸⁵ [Army Regulation 15-6: Final Report, Investigation into FBI Allegations of Detainee Abuse at Guantánamo Bay, Cuba Detention Facility ("Schmidt Report"), at 14]

⁸⁶ *Summarized Witness Statement of MAJ [REDACTED]*, Former Psychiatrist with the Behavioral Science Consultation Team (BSCT) [(M) SCHMIDT-FURLOW DEFERRED, DOD 3771] ("I witnessed military working dogs being used in interrogation of a detainee[...]Dogs were used to intimidate the detainee by getting the dogs close to him and then having the dogs bark or act aggressively on command. I never saw a dog allowed to bite or otherwise injure a detainee. I never saw dogs used except in the interrogation of this sole detainee. One dog that was used regularly for this was a dog named, 'Zeus'. I do not recall the name of the handler.")

The dogs were under control of the MP handler. They would have the dogs look at the detainees[...]Keep in mind, they don't like dogs. Unless the dogs are on patrol, they would be in an interrogation room. Using dogs is equal to the Fear Up technique. It breaks their concentration in their response to the interrogation techniques. They would be thinking about that dog.⁸⁷

⁸⁷ *Summarized Witness Statement of MG (Retired) Mike Dunlavey, Former Commander, JTF-170 [(M SCHMIDT-FURLOW DEFERRED, DOD 3774]*

APPENDIX 4

LIMITATIONS UPON THE FBI AGENTS' ABILITY TO OBSERVE OBJECTIONABLE MISCONDUCT

This Report relies primarily upon FBI agents' observations of questionable interrogation techniques. However, these same agents were restricted from seeing many additional acts of abuse. This Appendix shows how the FBI agents were intentionally and systematically prevented from seeing objectionable conduct.

Since the FBI agents were limited in their observations, it would appear that this Report reveals only the tip of the iceberg when it comes to coercive interrogation tactics at Guantánamo.

According to FBI agents, the Department of Defense avoided engaging in abusive treatment of detainees when FBI agents were available to observe it. "I truly do not believe that any abusive activity would have occurred in the presence of bureau personnel." (Responses-239)

The incidents of abuse and mistreatment witnessed and reported by the FBI Agents are probably not all of the incidents of mistreatment of detainees at Guantánamo Bay.

"There are several examples in which DHS personnel have awaited the departure of an FBI supervisor before embarking on aggressive, unilateral interrogation plans which they knew would not have been endorsed by the FBI." (Detainees-1265.)

Department of Defense personnel often waited until supervising FBI agents left the base after completing their tour of duty before returning to interrogate the detainees. The agents reported that more objectionable behavior occurred when the agents were not around.

"The 5/30 EC says on p. 5 that 'There are several examples in which DHS personnel have awaited the departure of an FBI supervisor before embarking on aggressive, unilateral interrogation plans which they knew would not have been endorsed by the FBI. I need some elaboration on that.'" (Detainees-2619)

The Department of Defense actively and purposely interfered with the efforts by the FBI to prepare cases for prosecution by interfering with and limiting FBI access to the detainees.

"We've heard that DHS interrogators routinely identify themselves as FBI Agents and then interrogate a detainee for 16-18 hours using tactics as described above and others (wrapping in Israeli flag, constant loud music, cranking the A/C down, etc). The next time a real Agent tries to talk to that guy, you can imagine the result." (Detainees-2600)

FBI agents would not have seen all possible mistreatment because the FBI interrogated detainees at different times of day than Department of Defense personnel. Typically, the FBI interrogated during the morning hours, and the Department of Defense personnel interrogated in the afternoon and at night.

“SA [REDACTED] and his team performed interviews in the morning. The afternoons and evenings were reserved for interviews conducted by those who were gathering intelligence. SA [REDACTED] did not know of the specific activities that occurred during the afternoon and evening interviews.” [Positives Response 7, Responses-70]

FBI Agents who complained about Defense Department interrogation techniques met with dismissive rejection:

“We talked to him (Mr. [REDACTED]) several different times to let him know that we objected to the use of dogs and that we did not do business that way. It was an inappropriate measure. He told us that we ([REDACTED] and I) were guests and we should act accordingly.” [(M) SCHMIDT-FURLOW DEFERRED DOD 3770]

APPENDIX 5

GENERAL MILLER

When the Government is accused of wrongdoing, a typical response is to shift the blame onto the shoulders of low-ranking officials. Here, however, the then-Commander of Guantánamo, Major General Geoffrey D. Miller, was intimately involved in many of these questionable interrogation techniques. This appendix contains FBI complaints that reveal General Miller's involvement. He was mentioned in fifteen solicited responses, unsolicited responses and two solicited responses.

Examples

Document 1226

b7C -1
1 We learned that neither runway arena nor the Miami ASAC will be coming to GTMO. Instead, only SSA [redacted] [redacted] will be coming from FBIHQ. Apparently, FBIHQ is scaling down their presence for the General, so we on the ground (me, [redacted] and [redacted]) have redesigned our approach and are preparing to meet with the General in a couple days.

Document 1261

(U) ~~(S)~~ The military and DHS's inaccurate portrayal to the Pentagon that the BAU had endorsed and, in fact, helped to create DHS's interrogation plan for [redacted] prompted SSA [redacted] SSA [redacted] and the FBI on-scene TDY operations supervisor, SSA [redacted] to send a letter (Encl 9) to MGEN Miller correcting these misstatements and requesting an opportunity to address the matter with MGEN Miller in person. During a subsequent meeting between MGEN Miller and SSAs [redacted] and SA [redacted] details and rationale for the BAU's interviewing approach were presented. Although MGEN Miller acknowledged positive aspects of this approach, it was apparent that he favored DHS's interrogation methods, despite FBI assertions that such methods could easily result in the elicitation of unreliable and legally inadmissible information.

[redacted] advised that during the fall of 2002, detainee # [redacted] was being held in the Navy Brig at Camp Delta. According to [redacted] the FBI questioned detainee # [redacted] for approximately two months with negative results. The military then moved detainee # [redacted] to Camp X-Ray. General Geoff Miller requested permission to

utilize "special interrogative techniques" on detainee # [redacted]. Corbett stated the FBI and DoD investigators had no further contact with detainee # [redacted] once he was transferred to Camp X-ray.

In response to question number five, the FBI agent in Positive Response 6 responded "meetings w/General Miller." Question 5 reads, "Describe how you became aware of DOD authorized techniques."

APPENDIX 6

REDACTIONS FROM UNSOLICITED RESPONSES

One of the major obstacles in compiling this report was the amount of material that was redacted from the publicly released documents. Redactions of dates and times of incidents, as well as redactions of identifying information, prevented the authors of this report from tallying actual occurrences of mistreatment. Instead, the authors were relegated to tallying the number of times questionable techniques were reported. A sizeable amount of substantive material was also redacted. Some redactions were strategically placed such that offensive conduct was apparently blanked out. Evidently, material was redacted in order to prevent the public from knowing certain abuses at Guantánamo, rather than in order to protect America's national security.

The data set in which the redactions are most conspicuous is the Unsolicited Responses. In this data set, every document is redacted. Many of the documents are nearly completely redacted and thus no useful information can be gleaned from them. In such cases, this report disregarded those documents.

The unsolicited section contains 251 unique documents. More than 40% of those unsolicited documents were heavily redacted. These documents were either wholesale redacted or redacted by at least half of the information contained in the document. In addition, more than 25% of the unsolicited documents excluded attachments that were referenced in the document as being attached to the document. More than 15% of the documents reviewed are missing pages. No explanation is given for the missing pages or missing attachments.⁸⁸

- Heavily Redacted Documents

- 101 documents are heavily redacted, 40.2% of the document set
- Examples
 - Legal Issues Regarding GTMO (Detainees-2555)
 - GTMO Issues for SAC Wiley (Detainees -2561)
 - The Role of the Behavioral Analysis Unit at Guantánamo Bay (Detainees-2480-2483)

- Missing Attachments

- 64 documents missing attachments, 25.5% of the document set
- Examples
 - Document 1261
 - Letter to General Miller
 - Attached document to establish model of interrogation

⁸⁸Three hundred twenty three documents were reviewed in the unsolicited set of which several documents were removed because of concerns for the purity of the document set. Nine documents were removed because they were present in the solicited set, 21 documents were removed because they were duplicative of documents already in the unsolicited set, and 42 were removed because they did not concern Guantánamo.

- Legal Analysis of Interrogation Techniques by SSA REDACTED FBI
 - FBI (BAU)/CITF Interrogation Plan for Detainee REDACTED----
 - Letter from FBI GTMO to Gen. Miller re: video teleconference of 11/21/02—
 - FBI (BAU) interview notes re: detainee REDACTED-
- Missing Pages
 - Within documents pages are missing without any notification. For instance, the document proceeds, page 1, page 2, page 4, and page 5.
 - 39 documents are missing pages; 15.5% of the document set
 - Examples
 - FBI_4379_4380.pdf
 - FBI_4712_4715.pdf
 - FBI_4959_4979.pdf
 - FBI_5066_5078.pdf
- Paper Chase
 - Page inserts included in documents instead of actual documents. These fillers reference the actual document number, but do not include the documents instead.
 - Paper fillers were used in three documents in the unsolicited set
 - Examples
 - FBI_4384_4392.pdf
 - Detainees 2292, 2294, 2295- which were subbed for 2314, 2315, 2320-
 - FBI_4566_4581.pdf
 - Detainees 2541-2542 which is subbing for 2543-2544
 - FBI_4942_4947.pdf—check
 - Detainees 2608-2609 and Detainees 1362-1367